

IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH
FACEBOOK USER IDs:

100024674074976

THAT ARE STORED AT PREMISES
CONTROLLED BY FACEBOOK, INC.

Case No.

4:19mj00001

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Devin Taylor, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with certain Facebook user IDs that are stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession pertaining to the subscriber or customer associated with the user ID, including the content of the subscriber's or customer's account.

2. I am an Investigator with the Pittsylvania County Sheriff's Office based in Chatham, Virginia. I have been a Task Force Officer with the Federal Bureau of Investigation ("FBI") since October 2016 and currently work in that capacity while employed with the

Pittsylvania County Sheriff's Office. Prior to serving in the role of an Investigator, I served as a Deputy Sheriff employed by the Pittsylvania County Sheriff's Office. Prior to my appointment to Deputy Sheriff and then promotion to Investigator, I served as a crime analyst with the Pittsylvania County Sheriff's Office, where my duties encompassed analyzing digital records from cellular devices, to include search warrant returns from various social media platforms, such as Facebook.

3. I have had extensive training at the Piedmont Regional Criminal Justice Training Academy, where I completed entry level law enforcement training and hold a Virginia Law Enforcement Certification. I am also a certified Instructor with the Piedmont Regional Criminal Justice Training Academy, which allows me to teach Virginia Department of Criminal Justice Services curriculum to upcoming officers enrolled in training academies in the Commonwealth of Virginia.

4. I have also been trained on the investigative use of cellular and other electronic devices, to include performing forensic examinations on such devices which I hold numerous certifications. In addition, I have extensive training in cyber crimes, hold numerous certifications regarding cyber and digital investigations, and have conducted numerous cyber investigations with a focus on social media. I am also a certified Liaison Officer with the Virginia Fusion Center. To obtain my certification, I participated in training focused significantly on gang investigations.

5. During my career as a law enforcement officer, I have authored numerous affidavits in support of state search warrants, criminal complaints, and arrest warrants. As a TFO with the FBI, I have authored affidavits in support of federal criminal complaints.

6. In addition, I am presently and have previously participated in numerous criminal investigations focused on firearms, drug trafficking violations, criminal street gangs, human trafficking, cyber security, and national security cases. I have had training on violations of Title

18, United States Code, Section 1961 *et seq.* (Racketeer Influenced and Corrupt Organizations Act); Title 18, United States Code, Section 1959 *et seq.* (Violent Crimes in Aid of Racketeering); Title 18, United States Code, Section 1951 *et seq.* (Racketeering); Title 18 United States Code, Section 921 *et seq.* (Firearms); and Title 21, United States Code, Section 841 *et seq.* (Drug Offenses).

7. As a FBI TFO, I am an “investigative or law enforcement officer” of the United States within the meaning of Title 18, United States Code, Section 2510(7) and am empowered by law to conduct investigations of, and to make arrests for, offenses in violation of Titles 18 and 21 of the United States Code.

8. The facts in this affidavit come from my own investigation, observations, training and experience, and information obtained from other law enforcement officers and witnesses, including members of the gang under investigation and their associates. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

9. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of Title 18, United States Code, Section 1962 (RICO); Title 18, United States Code, Section 1959 (VICAR); and Title 18, United States Code, Sections 1512 (Witness Tampering) have been committed. There is also probable cause to search the information described in Attachment A for evidence of these crimes and contraband, or fruits of these crimes, as described in Attachment B.

TECHNICAL BACKGROUND ON FACEBOOK

10. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish

accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users and sometimes with the general public.

11. Facebook asks users to provide basic contact and personal identifying information to Facebook during the registration process or later. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

12. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

13. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

14. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

15. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

16. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient’s “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages

through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

17. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

18. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

19. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

20. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

21. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

22. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other “pokes,” which are

free and simply result in a notification to the recipient that he or she has been “poked” by the sender.

23. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

24. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

25. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

26. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

27. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

28. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element of an offense (such as an enterprise) or, alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's "Neoprint," IP log, stored electronic communications, photographs, and other data retained by Facebook can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators

can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to "tag" their location in posts and Facebook "Friends" to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner's state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner's motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

29. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

PROBABLE CAUSE

30. On June 11, 2018, a federal Grand Jury indicted members of the Rollin 60s Crips street gang, the Milla Bloods street gang, and gang associates on violations of Title 18, United States Code, Section 1962 (Racketeer Influenced and Corrupt Organizations Act); Title 18, United States Code, Section 1959 (Violent Crimes in Aid of Racketeering), and a variety of other charges, including obstruction-related offenses. The Court issued arrest warrants for the individuals, and they were arrested. Those cases are captioned *United States v. Davis et al.*, 4:18-cr-11, and *United States v. Anthony, et al.*, 4:18-cr-12 ("Bloods Indictment"). The Grand Jury issued a First

Superseding Indictment in *United States v. Davis et al*, 4:18-cr-11, on November 6, 2018 (“Crips Indictment”).

31. In addition, the Grand Jury found probable cause that Kevin Trent a/k/a “Benji Gates” or “Bad Ass” (herein, “Trent”) tampered with (or attempted to tamper with) a federal witness and/or obstructed justice for doing so in April 2016. These charges are included in the Crips Indictment. The allegation is that Trent attempted to influence the testimony of witnesses before the federal Grand Jury by posting publicly viewable messages on Facebook instructing individuals not to talk – the day after three witnesses had been served with grand jury subpoenas. In one message, Trent stated “It’s Gone Be A lot Of Funerals Bacc to Bacc¹ If A Nicca Take The Stand On me” beside an emoji of someone talking. On that same date, he also posted “Snitching Ain’t Cool.”² The Facebook account on which these were posted is called **Benji Banko Gates**, with the **FACEBOOK User ID 100024674074976**. After his arrest in June 2018, Trent waived his rights and answered questions from law enforcement. During this interview, he admitted to creating, owning and maintaining the Facebook handle of Benji Gates.

32. Moreover, a federal Grand Jury found probable cause that Trent is a member of the Rollin 60s Crips street gang. According to his Facebook account (one of which has been obtained and reviewed pursuant to a federal search warrant) and the testimony of multiple witnesses, Trent has been a member since at least the beginning of 2016. Multiple witnesses consider Trent to be one of the most dangerous individuals in Danville before his arrest.

¹ Crips gang member do not use the letters “ck” together as they mean “Crip killer.”

² Witnesses have repeatedly testified that testifying in the grand jury is considered “snitching.”

33. Law enforcement arrested Trent in June 2018. Since that time, he has been incarcerated pending trial. Despite his incarceration, Trent has attempted to intimidate witnesses. For example, on or about October 3, 2018, Law Enforcement observed a public post on Trent's Facebook account, which was linked from the account of D'onte Trent. The post appears to be a copy/paste of a "jail mail message" (an inmate email application) written by Trent to D'onte Trent. The message is dated October 3, 2018. In the post, D'onte Trent stated, "Benji Banko Gates Benji Gates said to drop this message to yawl" and then the message from Trent:

Fosho fosho! Shidd Tell em Don't Count US Real Niggas Out We'll be home sooner than they think && I appreciate everybody that's reaching out and making sure a nigga good holding me down the Real Way! Stay Sucka Free cous the Fuck boys winning! && tell them lame ass Bitches Keep My Name Out they Mouths Cause They a nigga Hanging Thinking It was Over For me! The Return Of Benji Gates Is Near mfers hahahaha! #FreeTheGuys #FreeTheTrentBoys.....love you cous holla back at you soon Ohh Yea Get it right for me&&La got Straight Heat otw"

34. This message was also "tagged" to Trent's Facebook account, which would make the posting appear on both of Trent's active Facebook accounts. This means that Trent's Facebook friends would see the publicly posted message.

35. The phrase "tell them lame ass Bitches Keep My Name Out they Mouths" is a warning to witnesses (who can see the publicly viewable post) not to testify against Trent. The phrase "me&&La got Straight Heat otw" means that he and his brother (whose nickname is LA and who is also part of the Crips Indictment) will be using firearms (Straight Heat) soon (otw).

The two phrases together appear to be a warning and threat to witnesses, if not outright witness intimidation.

36. Based on your affiant's training and experience your affiant knows inmates commonly use individuals with access to a variety of mediums such as Facebook to post messages intended for followers to read for the purposes of intimidation of witnesses.

37. Trent has also used his Facebook account as a means to promote his gang activity. For example:

- a. Your affiant observed on Trent's publicly available Facebook page various photographs of Trent flashing gang signs and wearing blue, the color for Crips. In at least one photograph, he is with another known Rollin 60s gang member. In another photograph, Trent is with another male with Trent holding up the "800" gang hand sign, which is a sign used by members of the Rollin 60s Crips as it refers to their gang territory and home neighborhood in Danville called the "800." In this same photograph, Trent was wearing "blue" sneakers and a blue jacket and black jacket.
- b. In another publicly viewable post, Trent posted "It's H06D Day Tomorrow" beside various blue emojis, commemorating the day the Rollin 60s Crips gang was founded.
- c. In other posts, Trent admits his criminal activity (which also helps promote the gang) with the post, "Crime After Crime. From Drugs to Extortion, I know My Mama Wish she Had A Fuccin Abortion...."

38. Therefore, Trent's Facebook account contains evidence of various crimes as well as evidence of his gang association and participation, and thus there is reasonable suspicion

to believe the requested records will be relevant and material to the ongoing criminal investigation of the gang itself and of the aforementioned offenses.

CONCLUSION

39. Based on the foregoing information, your affiant submits that probable cause exists that the individual listed above has been engaging in activity that violates Title 18, United States Code, Section 1962; Title 18, United States Code, Section 1959; and Title 18, United States Code 1512. I believe that the Facebook records being sought for the listed individual contain evidence of the criminal enterprise, as well as direct evidence of various federal crimes.

40. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

Respectfully submitted,



Devin Taylor

Received by reliable electronic means and Task Force Officer
sworn and attested to by telephone on Federal Bureau of Investigation
January 11, 2019.

~~Subscribed and sworn to before me on January, xxxxxx, 2019.~~



HONORABLE JOEL C. MORPE
UNITED STATES MAGISTRATE JUDGE